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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/611,699	07/01/2003	David W. Schneider	14258	4442
7590	03/07/2006		EXAMINER	
Sally J. Brown AUTOLIV ASP, INC. 3350 Airport Road Ogden, UT 84405			DUNN, DAVID R	
			ART UNIT	PAPER NUMBER
			3616	

DATE MAILED: 03/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/611,699	SCHNEIDER ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	David Dunn	3616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 14 December 2005.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1 and 3-78 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1 and 3-78 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                     | Paper No(s)/Mail Date. _____ .  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____ .                                  |

## DETAILED ACTION

This Office Action is responsive to the amendment filed December 14, 2005. Claim 2 has been canceled and new claims 72-78 were added.

### *Election/Restrictions*

1. Claims 5-16, 24-41, 45-47 and 51-71 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on July 18, 2005.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claim 72 is rejected under 35 U.S.C. 102(b) as being anticipated by Shaunessey (US 4,130,298).

Shaunessey discloses an overhead airbag comprising a cushion guide tether (41) coupled to the cushion and the vehicle.

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4. Claims 1, 3, 4, 17, 18, 20-23, 42-44, 48, 49, and 72-77 rejected under 35 U.S.C. 102(e) as being anticipated by Brown et al. (6,237,943).

Brown et al. disclose an overhead airbag with a tether (44; see Figure 3) coupled to the cushion by a first cushion attachment and by a second cushion attachment and coupled to the vehicle by a vehicle attachment (54, 52) positioned between the first and second cushion attachments. The vehicle attachment is an eyelet loop (54).

5. Claims 1, 3, 4, 17-23, 42-44, 48-50 and 72-78 are rejected under 35 U.S.C. 102(e) as being anticipated by McGee et al. (US 6,709,008).

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention “by another,” or by an appropriate showing under 37 CFR 1.131.

Dominissini et al. discloses an overhead airbag with a tether (15) coupled to the cushion by a first cushion attachment (at 30) and by a second cushion attachment (31) and coupled to the vehicle by a vehicle attachment (32) positioned between the first and second cushion attachments. The vehicle attachment is an eyelet loop (32). The vehicle attachment point is the A-pillar (see Figure 2).

6. Claims 72 and 76-78 are rejected under 35 U.S.C. 102(e) as being anticipated by Bakhsh et al. (US 7,000,944).

Bakhsh et al. discloses an overhead inflatable curtain (see Figures 2-4) with a tether (166) coupled to the curtain and the A-pillar.

***Response to Arguments***

7. Applicant's arguments filed December 14, 2005 have been fully considered but they are not persuasive.

On page 19-21, Applicant argues the rejection of Shaunessey. This rejection will be addressed regarding claim 72 as it is no longer applied to claims 1, 17, and 20. Applicant argues that Shaunessey shows a “flexible material” that is not a “tether”. Applicant provides a dictionary definition of tether which states that a tether is “something (as a rope or chain) by which an animal is fastened so that it can range only within a set radius.” In response, as this definition shows, a tether has a different meaning in the art, as the “tether” is not attached to animal. Therefore, it is noted that in the airbag art, tethers have various different sizes and shapes, the attachment of Shaunessey is considered to be a “tether” as it is a piece of material used to attach the airbag to the vehicle.

Regarding the rejections of Brown and McGee, Applicant argues that these references are not “overhead” airbag systems, but rather side airbag curtains. In response, it is submitted that the airbags of these references are attached to the vehicle at an “overhead” position and can be considered overhead airbags. Additionally, in further response to this argument, the recitation “overhead” has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend

on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951). The airbag systems of Brown and McGee are structurally the same as the applicant's claims and the "overhead" in the preamble does not serve to distinguish.

### ***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

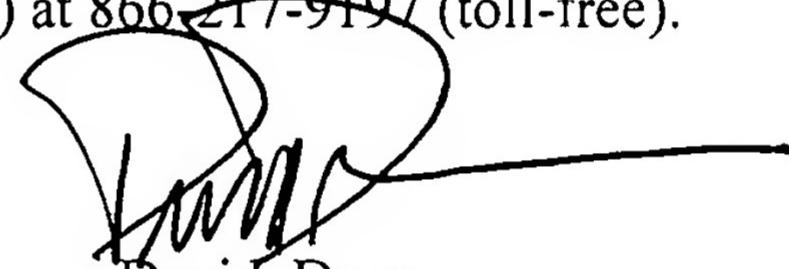
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Dunn whose telephone number is 571-272-6670. The examiner can normally be reached on Mon-Fri, 8:30-5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on 571-272-6669. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at ~~866-217-9197~~ (toll-free).



David Dunn  
Primary Examiner  
Art Unit 3616